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EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/777,433

Applicant(s)

KAMINKOW, JOSEPH E.

Examiner

Corbett B. Coburn

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 61-118 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 61, 62, 64, 66-68, 77-79, 81, 84, 93, 95, 97, 98, 106, 108, 110, 111, & 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis (US Patent No. 4,856,787).

**Claims 61, 77, 92 & 106:** Itkis discloses an electronic gambling unit for allowing a user to play a video gambling game. Itkis discloses the use of the devices to play video poker, video keno, video blackjack and video bingo (Fig 3). There is a display unit capable of generating color images (9); a currency acceptor capable of allowing the user to deposit a medium of currency (Col 5, 29-32); a pointable, virtual input device – a light pen (Col 4, 63) that would inherently be shaped like a light pen; a controller (10) coupled to the display unit, currency-accepting mechanism, and pointable, virtual input device. (Col 2, 57-62) While not discussed in detail, the controller would inherently be composed of a processor and memory operationally coupled to the processor. The controller is programmed to display a sequence of images (Fig 4) on the display unit after the currency-detecting mechanism has detected the deposit of currency (allowing the user to make a wager) by the player.

The sequence of images represents a video gambling game. (See Fig 4.) For a video poker game, the images displayed are of at least three cards (24). While not shown

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in Fig 4, for playing video blackjack, the images would inherently be a plurality of playing cards. For video bingo, the image is that of a bingo grid (20). And for video keno, the image is that of a keno grid (27).

As with all video wagering devices of this type, the controller is programmed to determine the outcome of the video gambling game represented by the sequence of images displayed and to determine a payout associated therewith. (Abstract)

Itkis discloses that the controller is programmed to cause the images to be modified in response to the user pointing the virtual object at a portion of the display device. (Col 4, 55-64) Crosshairs (32) are displayed on one of the images on the screen in response to the user pointing the input device at a portion of the display device. This is a virtual indicator that is displayed in response to the user selecting a selectable item.

The controller is programmed to cause a selectable item to be selectable in response to the user pointing the input device at the selectable item on the screen. (Col 4, 55-64) While not discussed in detail, a light pen (Col 4, 63) would inherently include a selector switch.

Itkis does not specifically teach use of the disclosed device to play video slots. Itkis teaches that other games can be played on the disclosed device. (Col 5, 33-37) Video slot machines are extremely well-known in the art and are tremendously popular with casino customers because they are easy to use and understand. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a video slot machine (with video slot machine images of simulated slot machine reels) in

the list of games to select from in order to take advantage of the video slot machine's popularity with casino clients, thus increasing revenues.

**Claims 62, 79, 93 & 118:** Fig 1, 9 discloses a touch screen wherein the input device comprises part of a touch sensitive video display device.

**Claims 64, 81, 95 & 108:** Fig 7, 36 discloses use of an electronic reader that is capable of reading an item having data stored thereon.

**Claim 66, 83, 97 & 110:** Fig 7, 35 discloses a sound generating circuit coupled to the controller capable of generating sounds related to the video gambling game and at least one speaker positioned to cause the sound to be emitted in response to receiving sound signals from the sound generating circuit.

**Claims 67 & 78:** Fig 4, 32, discloses that the controller is programmed to display crosshairs on one of the images in response to the user pointing the input device at a portion of the display device.

**Claim 68, 84, 98 & 111:** Col 4, 62-64 discloses a light pen input device. This would, by necessity, be shaped like a magic wand.

3. Claims 73-76, 89-91, 103-105 & 116-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77, 92 & 106 as appropriate, in view of Yamazaki (US Patent No., 6,251,011) (henceforth Yamazaki '011).

**Claim 73, 89, 103 & 116:** Itkis discloses the invention substantially as claimed. Itkis teaches using a variety of input devices. (Col 2, 60 & Col 4, 62-64) Itkis does not, however, teach use of an input device shaped like a firearm. Yamazaki '011, Fig 1 shows an input device shaped like a firearm (21). There is a portion shaped like a trigger (22).

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**Claim 74, 90 & 104:** Yamazaki '011, Fig 5 shows a bullet hole (BK) displayed on a portion of the image in response to the user pulling the trigger while the virtual gun is pointed at the portion of the image.

**Claim 75, 91, 105 & 117:** Yamazaki '011, Fig 5 shows a flying bullet (DG) displayed on a portion of the image in response to the user pulling the trigger while the virtual gun is pointed at the portion of the image.

**Claim 76:** Itkis discloses causing a selectable item (i.e. the target) to be selected in response to the user activating an input device while pointing at a portion of the image. (Col 4, 55-61) While Itkis does not disclose pulling a trigger to activate an input device, pulling a trigger is the inherent method of activating a gun.

**Claim 118:** Itkis, Fig 1, 9 discloses a touch screen and the input device comprises part of a touch sensitive video display screen. (Col 4, 40-46)

**Overall Justification:** Itkis teaches the invention substantially as claimed. Itkis teaches using a variety of input devices. (Col 2, 60 & Col 4, 62-64) Itkis does not, however, teach use of an input device shaped like a firearm. Yamazaki '011, another video game, teaches use of an input device shaped like a firearm. This input device is functionally equivalent to the light pen disclosed by Itkis (Col 4, 62-64).

Casinos have found that players do not perceive a substantial difference between the various embodiments of electronic gaming devices. Therefore, the casinos have sought ways to increase the likelihood that a player will choose a particular machine. One method they have chosen to accomplish this is to adopt a theme for a particular gaming machine. The "western" theme, which includes input devices shaped like guns

and the display of bullets and bullet holes on the screen, is a popular motif. Such themes are believed to increase player enjoyment of the gaming device, thus leading to longer use by the player and higher profits for the casino.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used an input device shaped like a firearm and the display of bullets and bullet holes on the screen, in order to create a theme for the gaming machine, thus increasing player enjoyment of the gaming device and leading to longer use by the player and higher profits for the casino.

4. Claims 63, 80 & 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77 & 106 above, and further in view of Halic (US Patent Number 5,700,195) and Hara et al. (US Patent Number 5,027,415).

**Claims 63, 80 & 107:** Itkis discloses the invention substantially as claimed. Itkis, however, describes accepting coins as wagers. (Col 5, 29-32) Gaming machines that accept different denominations of paper money are extremely well known in the art. Halic provides but one example. Acceptance of paper currency for wagers instead of, or in addition to, coins encourages larger wagers and longer play at the gaming machine by the user. This generates higher profits for the casino. It would have been obvious to one of ordinary skill in the art at the time of the invention to accept paper currency for wagers to encourage larger bets and longer play at the gaming machine by the user, this generating higher profits for the casino.

While Halic includes a bill acceptor, it does not go into details about its construction. In order to create a functional device from Halic's disclosure, it would be

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necessary for a practitioner of the art to look to other art for these details. Hara describes a Bill Discriminating Apparatus that discriminates between various denominations of currency. By using Hara's device, to implement the disclosure of Halic, a person of ordinary skill in the art could create a slot machine that accepted different denominations of paper currency. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used Hara's Bill Discriminating in conjunction with Halic's disclosure to create a slot machine that had a bill reader capable of reading a plurality of different denominations of paper money in order to have a working system.

Furthermore, accepting different denominations of paper money would keep the player from having to leave the machine in order to get change. This increases the time spent gambling, thus increasing casino profits.

5. Claims 55, 82, 96 & 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77, 92 & 106 above in view of Pendergrass, Jr. (US Patent No. 5,565,148).

**Claims 65, 82, 96, 109:** Itkis discloses the invention substantially as claimed. It does not, however, teach use of coupling a scent dispenser to the controller in order to dispense a scent related to the game. Pendergrass, in invention concerned with heightening the realism of video games, discloses a scent dispenser couple to a video game controller. (Fig 10) Pendergrass teaches that the controller causes scents related to the video game to be dispensed. (Col 3, 9-29) Pendergrass teaches that this heightens the sense of immersion in the game, thus increasing player enjoyment. (Col 2, 20-28)



It would have been obvious to one of ordinary skill in the art at the time of the invention to include a scent dispenser coupled to the controller that dispensed scents relating to the game in order to increase the player's sense of immersion in the game and increase the player's enjoyment.

6. Claims 69, 85, 99 & 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77, 92 & 106 above, in view of DeMar et al. (US Patent Number 6,270,410).

**Claims 69, 85, 99, 112:** Itkis teaches the invention substantially as claimed. Itkis teaches the use of a number of different forms for the user input devices. (Col 2, 60 & Col 4, 62-64) Itkis does not, however, teach the use of a virtual remote control shaped like a remote control. DeMar teaches use of a remote control shaped input device for use in conjunction with a gaming machine. (Fig 1) DeMar teaches that with a remote control, the customer can operate two or three machines at once. This enhances the enjoyment of the customer and increases casino profits. (See Abstract.) It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a remote control shaped input device in order to allow the player to operate more than one gaming machine at a time, thus increasing player enjoyment and casino profits.

7. Claims 70, 72, 86, 88, 100, 113 & 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77, 92 & 106 above, in view of Ahdoot (US Patent Number 5,913,727).

**Claim 70, 86, 100 & 113:** Itkis teaches the invention substantially as claimed. Itkis teaches the use of a number of different forms for the user input devices. (Col 2, 60 &

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Col 4, 62-64) Itkis does not, however, teach the use of a helmet as an input device.

Ahdoot, another video game system, discloses such an input device (60).

**Claim 72, 88, 102 & 115:** Itkis teaches the invention substantially as claimed. Itkis teaches the use of a number of different forms for the user input devices. (Col 2, 60 & Col 4, 62-64) Itkis does not, however, teach the use of gloves as an input device.

Ahdoot, another video game system, discloses such an input device (30).

**Overall Motivation:** Casinos have found that people perceive that there is very little difference in the various slot machines and video poker games, etc., offered by the casino. Therefore, the entertainment value of the game is often the deciding factor in the player's game choice. Ahdoot teaches that use of input devices such as helmets and gloves allow the player to get a sense of interacting with the game. (Col 1, 10-18) This increases the entertainment value of the game. It would have been obvious to one of ordinary skill in the art at the time of the invention to use helmets and gloves as input mechanisms in order to increase the player's sense of interaction with the game and thus increase the game's entertainment value.

8. Claims 71, 97, 101 & 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 61, 77, 92 & 106 above, in view of Yamazaki et al. (US Patent Number 5,800,265) (henceforth, Yamazaki '265).

**Claim 71, 97, 101 & 114:** Itkis teaches the invention substantially as claimed. Itkis teaches the use of a number of different forms for the user input devices. (Col 2, 60 & Col 4, 62-64) Itkis does not, however, teach the use of goggles as an input device.

Yamazaki '265, an analogous device, discloses such an input device (16).

Yamazaki '265 teaches that use of goggles (16) allows the design of a game that is not boring even after extended play. (Abstract) Casinos are very anxious to keep players gambling for extended periods. This increases profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to use goggles as an input device in order to design games that are not boring even after an extended period of play in order to increase the length of time players play the game, thus increasing profits.

***Response to Arguments***

9. Applicant's arguments filed 8 Apr 02 have been fully considered but they are not persuasive.

a. Applicant argues that Itkis fails to teach the invention because Itkis teaches changing the image when the image is selected instead of merely pointed at. This is not commensurate with the scope of the claim. The claims say, "the controller being modified to cause one of the said images to be modified in response to the user pointing the virtual object at a portion of the display screen." This does **not** contain the limitation being suggested by Applicant's argument. To select an object on the screen, the player must point at it. Having pointed at the object and selected it, the object's appearance changes. This meets the claim as written. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, there is prior art of record in the case, Rieder (US Patent Number 6,017,272), which explicitly teaches changing the image when merely pointed at by the input device. (Fig 8)

b. Applicant argues that it is improper to apply the firearm-shaped input device taught in Yamazaki to Itkis because Itkis fails to teach use of such an input device. This is unpersuasive. Itkis teaches a variety of input devices. The physical appearance of an input device is a matter of aesthetic choice. Itkis specifically teaches use of a light pen. Light pens and light guns are functionally equivalent. They work in exactly the same manner by detecting the scanning pulses emitted by the video monitor to determine the location at which the device is pointed. Since light pens and light guns are well known to be functionally equivalent, Itkis cannot be said to teach away from light guns. Applicant's disclosure makes it clear that pointing devices (e.g., light pens, pointing helmets, pointing gloves, light guns, etc.) are equivalent devices.

c. Applicant argues that Halic's and Hara's bill acceptor is inapplicable to Itkis because Itkis fails to teach such a bill acceptor. This is not required in order to maintain a rejection under 35 USC §103. The references must teach the claimed feature and there must be some motivation to combine the references. In this case, both Itkis and Halic are gaming machines. Halic teaches a bill acceptor – a well-known feature of many gaming machines. There is a motivation to combine the two – players who use bills are more likely to wager larger amounts because bills represent greater denominations than coins. Halic is silent on the details of the bill acceptor, perhaps because they are so well known.

A practitioner in the art would therefore look elsewhere for details concerning bill acceptors in order to implement Halic's teaching. Hara teaches a bill acceptor that discriminates between different denominations of bills. There is an excellent motivation for using such a device. It would encourage the player to use any bill in the player's

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possession instead of having to go get change. This would tend to boost casino profits.

The fact that more than one reference is combined does not invalidate the rejection.

Additionally, Itkis does not, as Applicant argues, teach away from the device nor is there any suggestion whatsoever that Itkis would fail to work if it had a bill acceptor.

d. In regard to the rejection of claims 5, 22, 36, & 49; Claims 9, 25, 39 & 59; Claims 10, 12, 26, 28, 40, 53 & 55; and Claims 11, 27, 41 & 54, Applicant argues that the combination of the prior art is inappropriate because Itkis fails to explicitly suggest the combination. As pointed out above, this is not a requirement for maintaining a rejection under 35 USC §103. In each case, Examiner has shown where the claimed feature is to be found in the art and has provided a motivation for combining the references. A mere allegation that the combination is improper does not overcome Examiner's *prima facie* case for obviousness.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

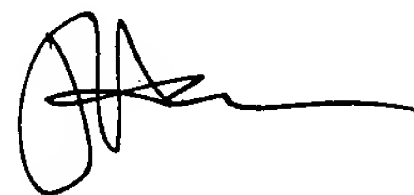
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

August 15, 2002



JESSICA HARRISON  
PRIMARY EXAMINER